REMARKS

This communication is in response to the Office Action mailed on January 12, 2005 and accompanying a Request for Continued Examination (RCE). In the Office Action, claims 1-10 were pending. Applicant has amended claims 1, 4, 8 and 9 and canceled claims 2-3 and 10. Claims 11-17 have been added.

The Office Action first reports that claims 1-10 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Additionally, claims 1-10 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Each of these rejections relate to energizing one of the drive motors. Applicant notes that single motor movement is described on page 1, lines 18-21, wherein one or more drive motors are energized to move one or more roof members. Additionally, attention is directed to page 3, lines 5-9, wherein a particular embodiment is described wherein roof members 1-4 have their own electric motors 5. FIG. 2 also illustrates movement of only one roof member and hence energizing one drive motor. In view of these portions of Applicant's specification, it is believed that claims 1-10 meet the requirements of 35 U.S.C. § 112, first and second paragraphs. Accordingly, withdrawal of the rejections under 35 U.S.C. § 112 is respectfully requested.

Next, the Office Action reports that claims 1, 2, and 6-10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Weissrich et al. (U.S. Pat. No. 5,749,617, hereinafter "Weissrich"). Generally, Weissrich discloses a motor vehicle roof control actuated with a rotary switch. Motors are used to position the vehicle roof corresponding to the position of the rotary switch. When an operator rotates the switch to a desired position, the motors immediately move the vehicle roof to the corresponding position without further input from the user. In this manner, the positioning of the vehicle roof is accomplished

through a single operation. In the portion cited by the Office Action (col. 4, ln. 1-4, 21-27), Weissrich states that the switch may be "executed as a push button switch function." However, Applicant respectfully notes that Weissrich only discloses using a button that needs to remain depressed in order to completely open or close the vehicle roof. In this manner, the operator must keep the switch depressed until the opening or closing process is completed in full. Premature release of the switch interrupts the opening or closing process.

Applicant notes that independent claims 1 and 9 of the present invention relate to a control element having a first and second operation to control the roof assembly of a vehicle. The first operation is used to select the desired position of the roof assembly and the second operation is used to activate a control unit to energize at least one drive motor to position at least one roof member according to the position selected by the first operation. Simply put, the roof assembly is moved to the position specified by the first operation of the control element after the occurrence of the second operation, which activates the motors. The second operation uses a push-button function. When the push-button is depressed during movement of the roof members, movement is deactivated. The amendatory language of claims 1 and 9 includes subject matter previously recited in claims 2, 3 and 10. These claims have thus been canceled.

Applicant respectfully submits that Weissrich does not teach or suggest a control element having a push-button function that deactivates movement of roof members when the push-button is depressed. Although Weissrich does disclose using a button to execute the switch function to completely open or close a roof assembly, the button function that is described does not deactivate the control unit when depressed during movement of the roof assembly to the desired position. Instead, the operator must continue to hold the button to completely open or close the roof assembly. As a result, the button does not move the roof assembly to the selected position as the movement of the roof

assembly is directly dependent on continuous operator input. The continuous operator input is thus different from the claimed invention in which a separate, second operation is used to activate the control unit to energize at least one drive motor to move the roof assembly to the pre-selected position and can deactivate the movement when depressed. The continuous input of Weissrich moves the roof assembly and is simply not a separate second operation that deactivates a control unit.

Furthermore, as discussed above, Weissrich describes depressing a button completely to fully open or fully close the roof. Thus, only two positions operate with this button. Claims 1 and 9 recite at least three pre-selected positions, which is neither taught or suggested by Weissrich. Accordingly, independent claims 1 and 9 are believed to be allowable. Thus, withdrawal of the rejection under Weissrich is requested.

Next, the Office Action rejected claims 1-5 under 35 U.S.C. §103(a) as being unpatentable over Weissrich in view of Caye et al. (U.S. Pat. No. 5,961,177, hereinafter "Caye"). Applicant respectfully submits that claims 1 and 4-5 are neither taught or suggested by the above prior art combination. Claim 4 relates to reactivating the control unit of the roof assembly upon operation of the push button switch. Claim 5 relates to overriding a pinch safety system.

Caye discloses a switch assembly including a knob and a rocker button used to control a sunroof assembly. The knob is used to select the system component that is desired to be moved. The rocker button comprises an open and a close button separate from each other. In this manner, the rocker button is also a selection means as one button opens and one button closes the sunroof assembly. On the other hand, the open and close selection control in Weissrich is accomplished through the setting of the rotary switch. A single push-button is used to execute the opening and closing of the roof assembly in accordance with the rotary switch when the rotary switch is in the fully open or fully closed position. Alternatively, Caye utilizes two separate

push-buttons as a selection means to determine whether to open or close the sunroof assembly. As a result, the buttons utilized in Weissrich and in Caye are used for separate and fundamentally different purposes. Hence, Applicant respectfully submits that there is no motivation or support to combine the switch functions of the Weissrich and Caye references and thus claims 1 and 4-5 are believed to be allowable.

Applicants have further added independent claim 11 and claims 12-17 that depend therefrom. These claims are believed to be allowable over the prior art.

In view of the foregoing, Applicant respectfully submits that independent claims 1, 9 and 11 are not taught or suggest by Weissrich and are in allowable form. In addition Applicant respectfully submits that dependent claims 4-8 and 12-17, which are believed independently and separately patentable, are also in allowable form. Consideration and allowance of claims 1,4-9, and 11-17 is respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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